

REMARKS/ARGUMENTS

Claims 1-18 are currently pending.

No amendments to the claims or specification have been made, therefore, no new matter has been added.

Applicants respectfully traverse the 35 U.S.C. 103(a) rejection of Claims 1-4 and 6-18 as being obvious over Schmidt, because: 1) Schmidt is not prior art under 35 U.S.C. 102(e), and 2) the invention of the instant application and the invention of Schmidt were subject to common assignment at their respective times of invention, therefore Schmidt is removable under 35 U.S.C. 103(c).

The filing date of Schmidt is March 11, 2004, the day of entry into the national stage, because the PCT application which Schmidt claims priority to, international application PCT/EP02/11547, was published as WO03/042290, in German, on May 22, 2003. The present application entered the national stage on July 28, 2004, claiming priority to international application PCT/EP03/04719, filed on May 6, 2003. Because the claim for priority was properly and timely made, the instant application, with a priority date of May 6, 2003, predates the Schmidt filing date of March 11, 2004, and Schmidt is therefore not prior art under 35 U.S.C. 102(e).

For the above listed reasons, Applicants request withdrawal of the rejection.

Applicants respectfully traverse the 35 U.S.C. 103(a) rejection of claim 6 as being obvious over Schmidt in view of Khanarian. As previously described, Schmidt is removable as a reference under 35 U.S.C. 103(c) and Schmidt is not prior art under 35 U.S.C. 103(e). Accordingly, removal of Schmidt leaves only Khanarian, and Khanarian does not describe or suggest all of the limitations of instant Claim 6. Withdrawal of the rejection is respectfully requested.

Applicants respectfully traverse the nonstatutory obviousness-type double patenting rejection of Claims 1-4 and 6-18 over Schmidt, and the nonstatutory obviousness-type double patenting rejection of Claim 6 over Schmidt in view of Khanarian. Applicants have filed, along with this paper, a Terminal Disclaimer. Withdrawal of the rejection is respectfully requested.

Applicants submit the present application is now in condition for allowance. Early notification to this effect is earnestly solicited.

Respectfully submitted,

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